United Nations

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

General Assembly
Official Records
Sixty-second Session
Supplement No. 33 (A/62/33)

General Assembly
Official Records
Sixty-second Session
Supplement No. 33 (A/62/33)

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization

United Nations • New York, 2007

Note

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

ISSN 0255-1276

Contents

Chapter		*Paragraphs*	*Page*
I.	Introduction	1–12	1
II.	Recommendations and decision of the Special Committee	13	3
III.	Maintenance of international peace and security	14–47	4
	A. Implementation of the Charter provisions related to assistance to third States affected by sanctions	14–19	4
	B. Consideration of the revised working paper submitted by the Russian Federation entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures"	20–27	5
	C. Revised working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions	28–30	9
	D. Consideration of the working paper submitted by the Russian Federation entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations"	31–35	10
	E. Consideration of the working papers submitted by Cuba at the 1997 and 1998 sessions of the Special Committee, entitled "Strengthening of the role of the Organization and enhancing its effectiveness"	36–38	11
	F. Consideration of the revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security	39–40	11
	G. Consideration of the revised working paper submitted by Belarus and the Russian Federation	41–47	12
IV.	Peaceful settlement of disputes	48–49	14
V.	*Repertory of Practice of United Nations Organs* and *Repertoire of the Practice of the Security Council*	50–56	15
VI.	Working methods of the Special Committee and identification of new subjects	57–61	17
	A. Working methods of the Special Committee	57–59	17
	B. Identification of new subjects	60–61	17

Chapter I
Introduction

1. The Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization was convened in accordance with General Assembly resolution 61/38 of 4 December 2006 and met at United Nations Headquarters from 7 to 15 February 2007.

2. In accordance with paragraph 5 of General Assembly resolution 50/52 of 11 December 1995, the Special Committee was open to all States Members of the United Nations.

3. The Special Committee held two meetings, the 251st meeting, on 7 February, and the 252nd meeting, on 15 February 2007. The Working Group of the Whole, established at the 251st meeting, held five meetings: on 7 February (1st meeting); on 8 February (2nd meeting); on 9 February (3rd meeting); on 12 February (4th meeting); and on 15 February (5th meeting). Informal consultations were also held on 13 and 14 February 2007.

4. On behalf of the Secretary-General, the session was opened by the Assistant-Secretary-General for Legal Affairs and Deputy to the Legal Counsel.

5. At its 251st meeting, on 7 February, the Special Committee, bearing in mind the terms of the agreement regarding the election of the officers reached at its session in 1981[1] and taking into account the results of the pre-session informal consultations among its Member States, held on 23 January 2007, elected the following members of its Bureau:

Chairman:
Andrzej **Towpik** (Poland)

Vice-Chairperson:
Yasir **Abdelsalam** (Sudan)

Rapporteur:
Gustavo **Álvarez** (Uruguay)

6. The Bureau of the Special Committee also served as the Bureau of the Working Group of the Whole.

7. The Director of the Codification Division of the Office of Legal Affairs of the United Nations Secretariat acted as Secretary of the Special Committee. The Principal Legal Officer of the Division acted as Deputy Secretary of the Special Committee and Secretary to the Working Group of the Whole. The Codification Division provided the substantive services for the Special Committee and the Working Group.

8. Also at its 251st meeting, the Special Committee adopted the following agenda (A/AC.182/L.124):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.

5. Consideration of the questions referred to in General Assembly resolution 61/38 of 4 December 2006, in accordance with the mandate of the Special Committee as set out in that resolution.

6. Adoption of the report.

9. General statements touching upon all or upon several items were made at the 251st meeting, as well as, in some instances, prior to the consideration of each of the specific items in the Working Group. The substance of those general statements is reflected in the relevant sections of the present report.

10. With regard to the question of the maintenance of international peace and security, the Special Committee had before it all the related reports of the Secretary-General,[2] including the most recent report, entitled "Implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions" (A/61/304), and the 1998 report on the matter containing a summary of the deliberations and main findings of the ad hoc expert group meeting convened pursuant to paragraph 4 of General Assembly resolution 52/162 of 15 December 1997 (A/53/312); a revised working paper submitted by the Russian Federation at the 2004 session, entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures"[3] and a revised working paper submitted by the Libyan Arab Jamahiriya at the 2002 session of the Special Committee on the strengthening of certain principles concerning the impact and application of sanctions (A/AC.182/L.110/Rev.1).[4] At the current session, the Russian Federation submitted a further revised version of its working paper entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations" (A/AC.182/L.114/Rev.2).

11. Furthermore, also with regard to the question of the maintenance of international peace and security, the Special Committee had before it an informal working paper submitted by the Russian Federation at the 1997 session of the Committee, entitled "Some views on the importance of and urgent need for the elaboration of a draft declaration on the basic principles and criteria for the work of United Nations peacekeeping missions and mechanisms for the prevention and settlement of crises and conflicts" (A/AC.182/L.89/Add.1);[5] a working paper submitted by the Russian Federation at the 1998 session of the Special Committee, entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations" (A/AC.182/L.89/Add.2 and Corr.1);[6] a proposal submitted by the delegation of Cuba at the 1997 session of the Special Committee, entitled "Strengthening of the role of the Organization and enhancing its effectiveness" (A/AC.182/L.93)[7] and an addendum thereto, submitted at the 1998 session (A/AC.182/L.93/Add.1);[8] a revised proposal also submitted at the 1998 session by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security (A/AC.182/L.99);[9] and a revised working paper submitted by Belarus and the Russian Federation at the 2005 session of the Committee containing a further revised version of a draft resolution of the General Assembly.[10]

12. At its 252nd meeting, on 15 February 2007, the Special Committee adopted its report on its 2007 session.

Chapter II
Recommendations and decision of the Special Committee

13. The Special Committee submits to the General Assembly:

(a) With regard to the question of the maintenance of international peace and security, in particular, the strengthening of the role of the Organization and enhancing its effectiveness, the recommendations in paragraphs 27 and 35 below, as well as the recommendation in paragraph 38 of document A/61/33.

(b) With regard to the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council*, the recommendation in paragraph 56 below.

Chapter III
Maintenance of international peace and security

A. Implementation of the Charter provisions related to assistance to third States affected by sanctions

14. The Special Committee considered the question of the implementation of the provisions of the Charter related to assistance to third States affected by sanctions during the general exchange of views held at the 251st meeting, on 7 February 2007, as well as during the 1st and 2nd meetings of the Working Group of the Whole, on 7 and 8 February 2007.

15. At the 1st meeting of the Working Group, the representatives of the Department of Political Affairs and the Department of Economic and Social Affairs submitted to the Special Committee for its consideration the information referred to in paragraph 12 of the report of the Secretary-General on the implementation of the provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions (A/61/304), on modalities, technical procedures and guidelines on coordination of technical assistance available to third States affected by the implementation of sanctions, as requested under paragraph 15 of General Assembly resolution 61/38. At the 2nd meeting of the Working Group, both representatives of the above-mentioned departments answered questions from delegations on their statements. These statements were made available publicly. It was understood that they would be reflected in the report of the Secretary-General on the implementation of provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions.

16. Delegations reiterated the importance that they attached to this topic, which had been referred to the Special Committee by the General Assembly for consideration on a priority basis.[11] They reaffirmed that sanctions, applied in accordance with the Charter, remain an important tool in the maintenance and restoration of international peace and security (as recognized in particular by the 2005 World Summit Outcome (General Assembly resolution 60/1)) and should be designed with care in order to minimize any adverse impact on third parties. They stressed that sanctions should be implemented and monitored effectively, in accordance with specific terms and goals, subsequent to an objective assessment of the unintended consequences they could generate.

17. Delegations further took note of the report of the Secretary-General on the implementation of provisions of the Charter of the United Nations related to assistance to third States affected by the application of sanctions, which indicated in particular that, in the period under review, no sanctions committees had been approached by Member States concerning special economic problems arising from the implementation of sanctions. They recognized that the targeted nature of sanctions was having the effect of minimizing unintended consequences on civilian populations and third States and praised the progress made by the Security Council in this field, including through the adoption of new procedures for the listing and delisting of individuals and entities from sanctions lists. They also invited the Security Council to continue its efforts in this regard. Reference was made to possible measures to provide assistance to third States, including the establishment of a fund financed from assessed contributions, the creation of a monitoring

committee or the use of multichannel financial arrangements and economic assistance to minimize the losses incurred.

18. Some delegations stressed that the United Nations system of collective security was based on a duty of solidarity and mutual aid enshrined in Article 50 of the Charter. It was also noted, however, that Article 50 provided a mechanism to discuss the effect of sanctions, but did not require the Council to take any specific action in this regard.

19. Some delegations considered that, in any event, the Special Committee should remain seized of the matter with the goal of establishing a comprehensive and objective framework which would allow for broad-based adaptation of the regime of sanctions and mitigate their adverse effects on third States and civilian populations. Other delegations, however, expressed the view that the Committee should acknowledge the developments occurring in other forums and should reflect upon the usefulness of continuing its discussions on the issue.

B. Consideration of the revised working paper submitted by the Russian Federation entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures"

20. The revised working paper submitted by the Russian Federation, entitled "Declaration on the basic conditions and standard criteria for the introduction and implementation of sanctions and other coercive measures", reproduced in paragraph 70 of the report of the Special Committee for 2004,[12] was referred to in the general exchange of views held at the 251st meeting of the Special Committee, on 7 February 2007.

21. At that meeting, some delegations observed that sanctions, as measures of last resort, should be imposed only after the exhaustion of all peaceful means of settlement of disputes and in cases of a threat to the peace, a breach of the peace or commission of an act of aggression. It was emphasized that sanctions should be applied in conformity with the provisions of the Charter and international law, and in accordance with strict and objective criteria, that their objectives should be clearly defined (and, in any event, should not include punishment or retribution), and that they should be imposed within a specified time frame, subjected to periodic review and lifted as soon as they achieved their purpose. It was further noted that targeted sanctions constitute a better option to minimize negative effects on civilian populations. Reference was made, in this context, to the 2005 World Summit Outcome.

22. Some delegations reiterated their support for the revised working paper and considered that the Special Committee was now in a position to recommend it to the General Assembly for adoption. Others expressed the view that the concerns that had motivated, inter alia, the working paper had been taken up and addressed effectively by the Security Council, and that the Special Committee should take that into account in deciding on its further work on the matter.

23. At the 2nd meeting of the Working Group, on 8 February 2007, the Russian Federation introduced a further revised version of its working paper (A/AC.182/L.114/Rev.2), which reads as follows:

Further revised working paper submitted by the Russian Federation

Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations

I. General issues

1. Sanctions remain an important tool under the Charter of the United Nations in efforts to maintain international peace and security without recourse to the use of force, and sanctions should be carefully targeted in support of clear objectives and are implemented in ways that balance effectiveness to achieve the desired results against the possible adverse consequences, including socio-economic and humanitarian consequences, for populations and third States.

2. The application of sanctions should be resorted to when other relevant peaceful options are inadequate and only when the Security Council determines the existence of a threat to the peace, breach of the peace or act of aggression.

3. Sanctions should be introduced in strict conformity with the provisions of the Charter and the rules of international law and provide for clearly stipulated conditions for lifting them.

4. Sanctions with regard to States and other parties may not be open-ended and should be subject to periodic review with a view to lifting them or not, or to adjusting them, taking into account the humanitarian situation and depending on the fulfilment by the target State and other party of the requirements of the Security Council. Time limits must, as a rule, be established for sanctions regimes; such time limits may be extended only on the decision of the Security Council.

5. Sanctions regimes with regard to individuals should ensure that the selection of such individuals and entities for listing is based on fair and clear procedures, and that regular reviews of names on the list are conducted and to ensure, to the degree possible, maximum specificity in identifying individuals and entities to be targeted; and to ensure also that fair and clear procedures for delisting exist early in sanctions regimes.

6. No additional conditions should be imposed for cessation or suspension of sanctions except as a result of newly discovered circumstances and except where explicitly provided for in Security Council decisions.

7. Before the introduction of sanctions, the target State or party must, as a rule, be given unambiguous notice.

8. The overthrowing or changing of the legal authorities in the target State must not be the purpose of sanctions. Given this fact, targeted sanctions are preferable in order to modify the behaviour of the relevant parties and to ensure the implementation of Security Council resolutions.

9. The purpose of sanctions is to modify the behaviour of the target State, party, individual or entity and not to punish or otherwise exact retribution.

II. Unintended side effects of sanctions

10. When the Security Council considers issues relating to sanctions, account must be taken of humanitarian considerations, which are equally pressing in time of peace and in time of armed conflict.

11. Objective assessment of the short-term and long-term socio-economic and humanitarian consequences of sanctions is necessary both at the stage of their preparation and in the course of their implementation. As far as possible, a prior assessment of the consequences of sanctions for the target State and for third States must be made.

12. Following the introduction of sanctions, a mechanism should be established to address special economic problems arising from the application of sanctions in accordance with the Charter and to provide assistance in monitoring their effects for third countries which have suffered or may suffer as a result of their implementation, so that the Security Council and its sanctions committees may receive timely information and early estimates in this respect and, while maintaining the effectiveness of the sanctions regime, may make the necessary corrections or partial changes to its implementation or to the regime itself in order to mitigate the negative impact of the sanctions on third States.

13. As far as possible the situations in which the consequences of the introduction of sanctions would inflict considerable material and financial harm on third States or in which the civilian population in the target State or third States would experience considerable adverse consequences should be avoided.

14. Humanitarian and other exemptions to all targeted measures, including arms embargoes, travel restrictions, aviation bans and financial sanctions, should be standardized.

15. Sanctions regimes must ensure that appropriate conditions are created for allowing an adequate supply of humanitarian goods to reach the civilian population. Foodstuffs, medicines and medical supplies should be exempted from United Nations sanctions regimes. Basic or standard medical and agricultural equipment and basic or standard educational items should also be exempted; a list should be drawn up for that purpose. Other essential humanitarian goods should be considered for exemption by the relevant United Nations bodies, including the sanctions committees. In this regard, efforts should be made to allow target States to have access to appropriate resources and procedures for financing humanitarian imports.

16. Unimpeded and non-discriminatory access of the population of target States to humanitarian assistance should be ensured.

17. The principles of neutrality, independence, transparency, impartiality and the impermissibility of any form of discrimination in the provision of humanitarian and medical assistance and other forms of humanitarian support for all sectors and groups of the population should be observed. A condition of

providing such assistance should be the prior clearly expressed consent of the recipient State or a request on its part.

18. The target State should cooperate without any condition to facilitate the equitable and unimpeded distribution of humanitarian assistance.

19. Decisions on sanctions must not create situations in which fundamental human rights would be violated.

20. Sanctions should be suspended in emergency situations and cases of force majeure (natural disasters, threat of famine, mass disturbances resulting in the disorganization of the country's Government) in order to prevent a humanitarian disaster. A decision on this must be taken in each specific case.

21. All information on the humanitarian consequences of the introduction and implementation of sanctions, including those which have a bearing on the basic living conditions of the civilian population of the target State and on its socio-economic development, should be considered by the Security Council and its sanctions committees, with a view to the modification of the sanctions regime.

III. Implementation

22. Sanctions should be implemented and monitored effectively with clear benchmarks.

23. Monitoring and compliance is first and foremost the responsibility of individual Member States. Member States should endeavour to prevent or correct activities in violation of the sanctions measures within their jurisdiction.

24. International monitoring by the Security Council or by one of its subsidiary organs of compliance with sanctions measures, in accordance with relevant Security Council resolutions, can contribute to the effectiveness of United Nations sanctions. States that may require assistance in the implementation and monitoring of sanctions may seek the assistance of the United Nations or relevant regional organizations.

25. States should be encouraged to cooperate in exchanging information about the legislative, administrative and practical implementation of sanctions.

26. Donors, including States and international and regional organizations with the capacity to do so, should be encouraged to offer appropriate technical and financial assistance to States that need such assistance for implementation of sanctions.

24. In its introductory remarks, the sponsor delegation emphasized that the text, as further revised, reflected comments and suggestions made by delegations at the previous sessions of the Committee. The new text was more succinct and focused, and also took into account recent developments within the United Nations in that field. With regard to the format of the document, the sponsor delegation now favoured the option of annexing it to the resolution of the General Assembly on the report of the Special Committee, and the working paper had thus been modified accordingly. As regards the contents of the document, the new text was divided into three parts, which addressed general issues and the unintended side effects of

sanctions and implementation, and took inspiration, inter alia, from the wording of the World Summit Outcome document, annex II to General Assembly resolution 51/242 and the report of the informal working group of the Security Council on general issues of sanctions (S/2006/997), of which the Security Council had taken note in its resolution 1732 (2006).

25. Several delegations thanked the sponsor delegation for its contribution to the work of the Committee and expressed, in general terms, their support for the proposal, as further revised, which they considered to constitute a significant improvement from previous versions. The view was also voiced that the proposal could eventually be finalized and adopted at the current session. Other delegations reserved their position with regard to the revised proposal and declared that they were ready to examine it in detail.

26. At the 5th meeting of the Working Group, on 15 February 2007, the sponsor delegation reported on the results of the informal consultations held on the revised working paper and indicated its intention to circulate a further revised version of its working paper prior to the next meeting of the Special Committee.

27. At its 252nd meeting, held on 15 February 2007, the Special Committee adopted the following recommendation:

> Taking into account the interest expressed by delegations with regard to the issue of sanctions, the Committee decides to continue consideration of the working document submitted by the Russian Federation, entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions", on a priority basis.

C. Revised working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions

28. The revised working paper submitted by the Libyan Arab Jamahiriya on the strengthening of certain principles concerning the impact and application of sanctions (A/AC.182/L.110/Rev.1), contained in the 2002 report of the Special Committee,[13] was referred to in the general exchange of views held at the 251st meeting, on 7 February 2007, as well as during the 2nd meeting of the Working Group of the Whole, held on 8 February 2007.

29. The sponsor delegation recalled that the Special Committee had considered the revised working paper at its previous sessions, in 2002 and 2003, and that some of the basic elements of the proposal had been included in the revised version of the proposal by the Russian Federation, entitled "Basic conditions and standard criteria for the introduction and implementation of sanctions imposed by the United Nations", introduced on 8 February 2007 (see sect. B above). The sponsor requested that the proposal remain on the agenda of the Special Committee and be considered jointly with the proposal of the Russian Federation.

30. Some delegations expressed support for the salient points raised in the proposal, in particular the provision of possible payment of compensation to target and/or third States for damage caused by sanctions found to have been unlawfully imposed.

D. Consideration of the working paper submitted by the Russian Federation entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations"

31. During the general exchange of views held at the 251st meeting of the Special Committee, on 7 February 2007, the sponsor delegation, the Russian Federation, referred to the working paper entitled "Fundamentals of the legal basis for United Nations peacekeeping operations in the context of Chapter VI of the Charter of the United Nations",[14] which it had submitted to the Special Committee at its 1998 session. The sponsor delegation pointed out that the significant evolution of the character of peacekeeping operations and extensive experience of the Organization in this field provided a basis for the elaboration of a unified document which could assist the Security Council in the preparation of its resolutions regarding the establishment of future peacekeeping operations.

32. Some delegations expressed support for the continued consideration of the proposal in the Special Committee since, in their view, the elaboration of a legal framework for peacekeeping operations of the United Nations could improve peacekeeping. A suggestion was made that the outcome of the consideration of the proposal in the Special Committee on the Charter be made available to the Special Committee on Peacekeeping Operations. It was observed that discussions on peacekeeping by other bodies of the Organization should not preclude the Special Committee on the Charter from considering this issue. According to another view, the Special Committee should not deal with issues that are currently examined elsewhere, in order to avoid duplication.

33. At the 2nd meeting of the Working Group, on 8 February 2007, the sponsor delegation reiterated its views expressed at the 251st meeting of the Special Committee (see para. 31 above) and recalled that its working paper aimed at identifying the main components of the legal framework for peacekeeping operations, based on the experience gained by the Organization over the years. Such components included the basic principles of peacekeeping, the structure and purpose of peacekeeping missions and respect for the Convention on the Safety of United Nations and Associated Personnel. With respect to the future work on the working paper, the sponsor delegation encouraged delegations to express their views, including regarding the suggestion to transfer consideration of the proposal to another forum, such as the Special Committee on Peacekeeping Operations.

34. Some delegations highlighted the importance of considering the legal basis of peacekeeping in the General Assembly. While some delegations expressed support for considering the proposal in another forum, some other delegations voiced concern as to whether, in its current form, the proposal was sufficiently advanced to constitute an outcome of the Special Committee. A view was expressed that discussions on the issue of peacekeeping should take into account recent developments, including those relating to the structure of the Department of Peacekeeping Operations. The sponsor delegation responded that the form of the proposal reflected its main purpose to formulate elements of peacekeeping mandates.

35. At its 252nd meeting, held on 15 February 2007, the Special Committee adopted the following recommendation:

> The Special Committee recommends inviting the Chair of the Sixth Committee to bring the sections of the reports of the Special Committee referring to peacekeeping operations to the attention of the Chairman of the Fourth Committee.

E. Consideration of the working papers submitted by Cuba at the 1997 and 1998 sessions of the Special Committee, entitled "Strengthening of the role of the Organization and enhancing its effectiveness"

36. The Special Committee considered the item "Strengthening of the role of the Organization and enhancing its effectiveness" during the general exchange of views held at the 251st meeting, on 7 February 2007, as well as during the 2nd meeting of the Working Group of the Whole, on 8 February 2007. It referred, in this context, to the working papers submitted by Cuba (A/AC.182/L.93 and Add.1).[15]

37. The sponsor delegation reiterated that the thrust of its proposals aimed at analysing the respective functions and competencies assigned to the General Assembly and the Security Council under the Charter in the area of maintenance of international peace and security, with a view to enhancing the broad role assigned to the General Assembly in this field. The sponsor delegation further recalled in this regard resolution 377 (V) of 3 November 1950 ("Uniting for Peace") and the relevant advisory opinions of the International Court of Justice. It emphasized that the working papers contained basic criteria for the revision of the procedures and practices of the General Assembly and other organs of the United Nations in this field, and that their consideration would complement the work of other bodies in the area of reform of the United Nations and revitalization of the General Assembly.

38. Some delegations expressed support for the working papers submitted by Cuba (A/AC.182/L.93 and Add.1)[15] and reaffirmed the importance of the work of the Special Committee in the area of enhancing the role of the General Assembly as the main legislative and representative organ of the Organization with a view to ensuring that it could effectively and efficiently exercise the functions assigned to it under the Charter. In this respect, they agreed that the documents submitted by Cuba would complement the work of other bodies of the United Nations. Other delegations, however, considered that it would not be appropriate for the Committee to examine these working papers at the present time, since that would duplicate the work undertaken elsewhere, notably by the Ad Hoc Working Group on the revitalization of the General Assembly.

F. Consideration of the revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international peace and security

39. The revised proposal submitted by the Libyan Arab Jamahiriya with a view to strengthening the role of the United Nations in the maintenance of international

peace and security was referred to in the general exchange of views, held on 7 February 2007, as well as in the second meeting of the Working Group of the Whole on 8 February 2007.

40. The sponsor delegation observed that the elements contained in the revised proposal remained valid, as it addressed the core of the reform of the United Nations, which included democratization and aimed at analysing the relationship between the Security Council and the General Assembly in the area of the maintenance of international peace and security. It requested that the proposal remain on the agenda of the Special Committee.

G. Consideration of the revised working paper submitted by Belarus and the Russian Federation

41. During the general exchange of views held at the 251st meeting of the Special Committee, on 7 February 2007, the representative of the Russian Federation, as co-sponsor of the proposal, referred to the revised working paper, submitted by Belarus and the Russian Federation at the 2005 session of the Special Committee,[16] in which it was recommended, inter alia, that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence. The co-sponsor expressed readiness for substantive discussions on the issue since it would contribute to the strengthening of the principle of the non-use of force or threat of force contained in the Charter of the United Nations as one of its key principles.

42. The representative of Belarus, the other co-sponsor, reiterated that the advisory opinion of the International Court of Justice would contribute to the uniform interpretation and application of the provisions of the Charter of the United Nations regarding the use of force and to the strengthening of the mechanisms of the maintenance of international peace and security envisaged by the Charter.

43. Some delegations reiterated their support for the proposal which, in their view, would contribute to the strengthening of the principle of the non-use of force or threat of force contained in the Charter of the United Nations.

44. At the 3rd meeting of the Working Group of the Whole, on 9 February 2007, the sponsors of the proposal reiterated their views expressed at the 251st meeting of the Special Committee (see paras. 41 and 42 above).

45. Some delegations supported the revised proposal and its consideration by the Committee. Concern was expressed over attempts to justify the unilateral use of force, without authorization by the Security Council, which was considered a violation of the Charter. However, a view was expressed that the proposal would benefit from redrafting, as previously suggested by some delegations. It was also suggested first to consider the legality of the request for the advisory opinion of the Court, focusing on its legal nature, abstract character and the need to clearly define its subject.

46. Some delegations expressed their views against the consideration of the revised proposal. They did not view it as necessary and noted that it contained vague formulations. It was pointed out that the 2005 World Summit debate

demonstrated that relevant provisions of the Charter were sufficient to protect international peace and security and that the Court already had a heavy workload.

47. The representative of the Russian Federation, as co-sponsor of the proposal, invited delegations to present to the co-sponsors their suggestions regarding the formulations of the proposal.

Chapter IV
Peaceful settlement of disputes

48. The Special Committee considered the item "Peaceful settlement of disputes" during the general exchange of views held at its 251st meeting, on 7 February, as well as during the 3rd meeting of the Working Group of the Whole, held on 9 February 2007.

49. During the general exchange of views, delegations recalled the duty of members of the United Nations, under Article 2, paragraph 3, of the Charter to settle their international disputes by peaceful means and underlined the duty of parties to a dispute to seek a peaceful solution at an early stage, by means set out in Article 33 of the Charter. The importance of the principle of free choice of means, as enshrined in the Charter was also emphasized. References were also made to the important role and record of the International Court of Justice in the judicial settlement of disputes in the past 60 years. The need to strengthen the current capacity of the Organization in the area of conflict prevention was underscored.

Chapter V

Repertory of Practice of United Nations Organs and *Repertoire of the Practice of the Security Council*

50. During the general exchange of views held at the 251st meeting of the Special Committee, on 7 February 2007, delegations commended the ongoing efforts by the Secretary-General aimed at reducing the backlog in the preparation of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and supported continuation of their publication. Some delegations re-emphasized the usefulness and importance of both publications, since, as part of the historical record of the practice of United Nations organs, they helped to preserve the institutional memory of the Organization and serve as important research tools for experts. Support was expressed for the conclusions contained in the report of the Secretary-General on these publications (A/61/153). As regards the *Repertoire*, a point was made that its publication should proceed in accordance with relevant provisions of the report of the Secretary-General (A/2170). The progress made towards making both publications available on the Internet was also welcomed. Some delegations supported the enhanced cooperation with academic institutions and called for voluntary contributions to the trust funds established for the publications, including for translating them into all the official languages of the Organization. It was also announced that a Member State was ready to make a financial contribution for translation of the publications into Arabic.

51. At its 3rd meeting, on 9 February 2007, the Working Group was briefed by the Secretariat on the status of preparation of the *Repertory* and the *Repertoire*.

52. With respect to the *Repertory*, it was pointed out that the French and Spanish versions of volume III of Supplement No. 6 and the French version of volume V of Supplement No. 7 had been issued since the last briefing in October 2006. In addition, advance versions of a number of studies had been placed on the Internet. Some of that progress was due to the ongoing collaboration with academic institutions, which had recently been enhanced with the participation of a number of externs from francophone institutions. It was further announced that a full-text search engine, available in the three languages of the publication, had been added to the website of the *Repertory*. It was recalled that the General Assembly in its resolution 61/38 called upon States to make contributions to the trust fund for elimination of the backlog in the preparation of the *Repertory*, but that to date, no contributions had been made to the fund.

53. With regard to the *Repertoire*, it was pointed out that the Secretariat was continuing to follow a two-track approach, to focus on the contemporary practice of the Security Council while continuing the address the publication's backlog. That approach also included streamlining the presentation and format of the *Repertoire* while retaining its general character and important substantive elements. Progress was reported with regard to the 12th, 13th, 15th and Millennium Supplements, as well as with regard to the placement of advance versions of various chapters on the Internet. It was pointed out that delegations could request CD-ROMs of the published versions of the *Repertoire*, as well as advance versions posted on the Internet. It was noted that such progress had been achieved in part thanks to contributions made by States to the trust fund as well as the sponsoring of associate experts. An appeal was made for continued donations and sponsorships.

54. Some delegations reiterated the importance they attached to the two publications, which served as invaluable tools for researchers, as well as the institutional memory of the Organization. In reference to the lack of funding for the *Repertory*, questions were asked regarding what steps should be taken by States to publicize the need for contributions to the Trust Fund, and whether the *Repertory* and *Repertoire* could be merged into a single publication. A query was raised regarding the streamlining of studies for the *Repertoire*, and in this context, a request was made for the internal preparation guidelines for the *Repertoire* to be distributed to delegations.

55. In responding to the questions and comments of delegations, the representatives of the Secretariat explained that the *Repertory* was currently published in English, French and Spanish, and that the addition of other official languages would require an additional mandate, as well as the requisite budgetary allocations. It was also explained that the Secretariat had already taken a number of innovative steps to continue working on the *Repertory* in the absence of any funding, such as the increased use of interns and collaboration with academia, but that contributions of States would be required in order to facilitate future work. Moreover, although, in some cases, cross-references to the *Repertoire* could be utilized where overlap existed, the two publications could not be merged since they tended to focus on different aspects of the practice of the Security Council. Regarding the *Repertoire*, it was stated that streamlining was intended to make the studies easier to read and to facilitate the elimination of the backlog, without removing important content. Although the internal guidelines contained only technical information on the preparation of the *Repertoire*, the Secretariat offered to discuss them with interested delegations on an individual basis.

56. The Special Committee on the Charter of the United Nations recommends that the General Assembly:

(a) Commend the Secretary-General for the progress made in the preparation of studies of the *Repertory of Practice of United Nations Organs*, including the increased use of the internship programme of the United Nations and further expanded cooperation with academic institutions for this purpose, as well as the progress made towards updating the *Repertoire of the Practice of the Security Council*;

(b) Reiterate its call for voluntary contributions to the trust fund for the updating of the *Repertoire of the Practice of the Security Council*, as well as the trust fund for the elimination of the backlog in the *Repertory of Practice of United Nations Organs*, and the sponsoring, on a voluntary basis, and with no cost to the United Nations, of associate experts to assist in the updating of the two publications;

(c) Call upon the Secretary-General to continue his efforts towards updating the two publications, and making them available electronically in all their respective language versions;

(d) Reiterate the responsibility of the Secretary-General for the quality of the *Repertory of Practice of United Nations Organs* and the *Repertoire of the Practice of the Security Council* and, in particular, with regard to the *Repertoire of the Practice of the Security Council*, and call upon the Secretary-General to continue to follow the modalities outlined in paragraphs 102 to 106 of his report of 18 September 1952.[17]

Chapter VI
Working methods of the Special Committee and identification of new subjects

A. Working methods of the Special Committee

57. In the general exchange of views held at the 251st meeting of the Special Committee, on 7 February 2007, as well as in the discussions of the Working Group of the Whole on 12 February 2007, references were made to General Assembly resolution 61/38, in which the Assembly noted with appreciation the adoption by the Special Committee of the working paper on the working methods of the Special Committee, upon the initiative of Japan.[18]

58. Some delegations considered the adoption of the working paper as a first step and expressed their willingness to further improve the working methods of the Special Committee. In their view, many of the topics under consideration by the Committee had been taken up and addressed in other bodies of the United Nations. They favoured the discontinuation of work on the topics, which has been on the agenda of the Special Committee for many years but no progress had been achieved.

59. Other delegations, however, expressed the view that limited progress in the Special Committee was due mainly to a lack of political will and it was not the result of the working methods of the Committee. They urged delegations to show flexibility in order to finalize some of the proposals that have been on the agenda for many years and expressed the view that States should not be constrained in submitting new proposals. The view was also expressed that the current format of the Committee, including the duration of its sessions, should be maintained.

B. Identification of new subjects

60. During the general exchange of views held at the 251st meeting, on 7 February 2007, it was recalled that Member States of the Rio Group had suggested that the Special Committee give special consideration to the addition of two items on the agenda, including an item entitled "Consideration of the legal aspects of the reform of the United Nations".[19] Guyana, on behalf of the Rio Group, further reiterated the proposal with regard to this item. At the 4th meeting of the Working Group of the Whole, on 12 February 2007, it was explained that the reform commitments that stem from the 2005 World Summit Outcome and the proposals of reform subsequently made may have legal implications, which the Special Committee could consider under the new proposed topic. Support was expressed for this proposal. It was pointed out by some delegations, however, that this new topic should not and will not include the issue of any amendment of the Charter of the United Nations, which the Special Committee should refrain from considering unless so instructed by the General Assembly. Some delegations declared that they would continue to consider that proposal, but requested that more information be provided about the specific contents of the prospected item and its relation with the work of the General Assembly on the reform of the United Nations. The Rio Group indicated its intention to circulate prior to the next meeting of the Special Committee a document which would provide additional elements regarding the scope of the proposal of the

new subject entitled "Consideration of the legal aspects of the reform of the United Nations".

61. Argentina suggested that the Special Committee consider the issue of the application of rules of due process within the sanctions committees, notably with regard to the listing and delisting of individuals and entities from sanctions lists. Although it was recognized that it fell upon the sanctions committees themselves to establish their internal rules, it was felt that the Special Committee could make recommendations in that respect. While some delegations expressed their support for the proposal, the view was also expressed that the Security Council had undertaken significant work in that field and that the proposed topic would not constitute a fruitful area for consideration by the Committee.

Notes

[1] *Official Records of the General Assembly, Thirty-sixth Session, Supplement No. 33* (A/36/33), para. 7.

[2] A/48/573-S/26705, A/49/356, A/50/60-S/1995/1, A/50/361, A/50/423, A/51/317, A/52/308, A/53/312, A/54/383 and Add.1, A/55/295 and Add.1, A/56/303, A/57/165 and Add.1, A/58/346, A/59/334, A/60/320 and A/61/304.

[3] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 33* (A/59/33), para. 70: during the Committee's 1998 session, the Russian Federation submitted a working paper under the item on maintenance of international peace and security, entitled "Basic conditions and criteria for the introduction of sanctions and other coercive measures and their implementation" (A/AC.182/L.100) and a revised version thereof in 2000 (A/AC.182/L.100/Rev.1); during the Committee's 2002 session, an addendum entitled "List of proposals and amendments to the Russian working paper entitled 'Basic conditions and standard criteria for the introduction of sanctions and other coercive measures and their implementation' introduced during the first reading of the paper" (A/AC.182/L.100/Rev.1/Add.1) was submitted and further revised versions of the working paper were introduced at the 2003 (A/AC.182/L.114) and 2004 (A/AC.182/L.114/Rev.1) sessions; also at the 2004 session, as a result of informal consultations, the Russian Federation submitted a further revised working paper during that session to be considered at the Committee's 2005 session (for the texts of the various proposals, see *Official Records of the General Assembly, Supplement No. 33*, for each respective year).

[4] Ibid., *Fifty-seventh Session, Supplement No. 33* (A/57/33), para. 89; the working paper constituted a revision of the proposal submitted by the Libyan Arab Jamahiriya during the Committee's 2001 session (A/AC.182/L.110 and Corr.1) (see *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 33* (A/56/33), para. 116.

[5] Ibid., *Fifty-second Session, Supplement No. 33* (A/52/33 and Corr.1), para. 58.

[6] Ibid., *Fifty-third Session, Supplement No. 33* (A/53/33), para. 73.

[7] Ibid., *Fifty-second Session, Supplement No. 33* (A/52/33 and Corr.1), para. 59.

[8] Ibid., *Fifty-third Session, Supplement No. 33* (A/53/33), para. 84.

[9] Ibid., para. 98.

[10] Ibid., *Sixtieth Session, Supplement No. 33* (A/60/33), para. 56; during the Committee's 1999 session, Belarus and the Russian Federation submitted a working paper, containing a draft resolution of the General Assembly (A/AC.182/L.104), in which it was recommended, inter alia, that an advisory opinion be requested from the International Court of Justice as to the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defence; at the same session, following discussions, the sponsors submitted a revised version thereof for future consideration (A/AC.182/L.104/Rev.1); a further revised version was submitted at the Committee's 2001 session (A/AC.182/L.104/Rev.2); (for the texts of the various proposals, see *Official Records of the General Assembly, Supplement No. 33* for each respective year).

[11] General Assembly resolution 60/22.
[12] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 33* (A/59/33).
[13] *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 33* (A/57/33), para. 89.
[14] A/AC.182/L.89/Add.2 and Corr.1; see *Official Records of the General Assembly, Fifty-third Session, Supplement No. 33* (A/53/33), para. 73.
[15] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 33* (A/52/33), para. 59; and ibid., *Fifty-third Session, Supplement No. 33* (A/53/33), para. 84.
[16] See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 33* (A/60/33), para. 56.
[17] A/2170.
[18] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 33* (A/61/33), paras. 72-73.
[19] *Official Records of the General Assembly, Sixty-first Session, Supplement No. 33* (A/61/33), para. 74.

07-24676 (E) 150307